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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,231	01/26/2004	Mark Moeglein	030212	1773
23696	7590	09/27/2005	EXAMINER	
Qualcomm, NC 5775 Morehouse Drive San Diego, CA 92121			GELIN, JEAN ALLAND	
			ART UNIT	PAPER NUMBER
			2681	
DATE MAILED: 09/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/765,231	MOEGLEIN ET AL.
	Examiner	Art Unit
	Jean A. Gelin	2681

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 January 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 7-48 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 January 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This is in response to a telephone interview with the Applicant's representative on September 19, 2005 in which an election of species was discussed. The previous Office Action signed on 9/19/05 has been vacated.

**Election/Restriction**

2. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species I    Claims 1-6 uses records supporting a protocol for position determination.

Species II    Claims 7-23 uses record based on sector identifier for position determination.

Species III    Claims 24-34 uses maximum antenna ranges (MARs) for position determination.

Species IV    Claims 35-39 uses stored enclosed space indicator for position determination.

Species V    Claims 40-48 uses stored repeater flags for position determination.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims

readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Philip R. Wardworth on September 21, 2005 a provisional election was made without traverse to prosecute the invention of group I, claims 1-7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-23, 24-34, 35-39, and 40-48 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 5, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Twitchell et al. (US 6,222,483).

Regarding claims 1, 5, and 6, Twitchell teaches a method of using a base station almanac for position determination in a wireless communication network (determining position of the mobile using information from the server, col. 4, lines 37-58), comprising: storing (at the database 54), for the base station almanac, a plurality of records (such ephemerides and almanac) for a plurality of transmitting entities in the wireless communication network (as shown in fig. 2), wherein each of the plurality of records supports at least one protocol for position determination, and wherein the base station almanac supports a plurality of protocols for position determination (i.e., server 54 includes information for assisting in determining the location of the mobile, as the mobile user roams to networks operated by different wireless providers one or more protocols, such as SMS, IS-707 circuit data, IS-707 packet data, can be used, col. 7, lines 5-37, col. 8, lines 34-46); and performing position determination for each of the plurality of

protocols based on records supporting the protocol (col. 7, lines 5-37, col. 8, lines 34-46).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Twitchell et al. (US 6,222,483) in view of Zhao (US 2003/0040331).

Regarding claim 2-4, Twitchell teaches all the limitations above except wherein the plurality of protocols include IS-801, J-STD-36, Global System for Mobile Communications (GSM) 04.31 Radio Resource LCS Protocol (RRLP).

However, the preceding limitations is known in the art of communications. Zhao teaches location assistance, position measurement, and position estimate data are stipulated in protocols that are specified in various standard documents (section 20). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement various protocols taught by Zhao within the system of Twitchell in order that the wireless network can determine the location of the mobile station by defining messages for wireless mobile stations and wireless network to request information from each other.

**Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Neher	US 6,362,778	03/26/2002
King et al.	US 2004/0263386	12/30/2004
Ogino et al.	US 2003/0100313	05/29/2003
Soliman	US 6,353,412	03/05/2002

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**JEAN GELIN**  
**PRIMARY EXAMINER**

JGelin  
September 21, 2005

*Jean Alain Gelin*